

United States

Circuit Court of Appeals

For the Ninth Circuit.

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In the Matter of PATTERSON-MacDONALD  
SHIPBUILDING COMPANY, a Corpora-  
tion, Bankrupt.

COMMONWEALTH OF AUSTRALIA,  
Petitioner,

vs.

A. M. MacDONALD and JOHN L. McLEAN, as  
Trustee in Bankruptcy of PATTERSON-  
MacDONALD SHIPBUILDING COM-  
PANY, a Corporation, Bankrupt,  
Respondents.

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ANSWER TO  
Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress,  
Approved July 1, 1898, to Revise, in Matter of  
Law, a Certain Order of the United States  
District Court for the Western District  
of Washington, Northern Division.

**FILED**

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FEB 7 - 1923

**F. D. MONKTON,**  
CLERK

IRA BRONSON,  
J. S. ROBINSON,  
H. B. JONES,  
Attorneys for Respondents.



United States Circuit Court of Appeals for the  
Ninth Circuit.

No. 3961.

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SHIPBUILDING COMPANY, a Corpora-  
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A. M. MacDONALD and JOHN L. McLEAN, as  
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MacDONALD SHIPBUILDING COM-  
PANY, a Corporation, Bankrupt,  
Respondents.

**Answer to Petition for Review.**

To the Honorable Judges of the United States  
Circuit Court of Appeals for the Ninth Circuit:

Come now the respondents above named, and  
without waiving, but reserving to themselves any  
and all rights to move against the proceedings  
herein, or to demur to the petition, for defects or  
insufficiencies appearing upon the face thereof, re-  
spectfully show unto the Court, for answer to said  
petition, as follows:

**I.**

Referring to paragraph II of the petition, re-  
spondents admit the presentation of a claim by the  
petitioner against the bankrupt, and the disallow-  
ance thereof, and the appeal from the order dis-  
allowing the same, as therein alleged, and deny each

and every other allegation contained in said paragraph, and state that the entire facts relative thereto are as follows:

That upon the filing of said claim, the trustee filed written objections thereto upon several grounds, one ground of objection being that the said claim was unliquidated, and thereupon the petitioner applied to Hon. Jeremiah Neterer, United States District Judge for the Western District of Washington, Northern Division, for an order directing the manner of liquidating said claim; that thereupon, the District Judge, with the consent of the parties, entered an order designating and appointing Hon. C. R. Hawkins, Referee in Bankruptcy before whom the bankruptcy proceedings were and are pending, a Special Master to take evidence and make findings upon the questions arising out of petitioner's claim and the trustee's objections thereto, and submit his findings and conclusions to the District Court; that the Special Master proceeded in accordance with said order, and thereafter filed with the District Court his report finding that the bankrupt was not indebted to the petitioner, in any sum whatsoever, but that, on the contrary, it had overpaid the petitioner over and above all just charges due and owing at the time of bankruptcy by the sum of \$312,602.48; that said report of the Special Master was, after hearing and argument, duly approved and confirmed by the District Judge, upon which decision an appeal has been taken and is now pending; and respondents deny that petitioner has any valid claim whatsoever against the bankrupt.

II.

Referring to paragraph VI of said petition, the respondents state that in addition to the proceedings at said meeting of August 18th, 1922, there were at least three previous meetings of creditors of the estate of said bankrupt, duly called and held for the purposes of authorizing disbursements, and at which the petitioner was present or represented, at which allowances, upon account, were made to the said A. M. MacDonald upon account of and in connection with the services performed by him for which the allowance herein complained of was made, and that pursuant to the action taken at such meetings, three several disbursement orders were made, dated respectively, February 16th, 1921, June 1st, 1921, and October 7th, 1921, making allowances to said A. M. MacDonald upon account of services as well as expenses; that said orders are included in the transcript of the record upon the appeal taken by petitioner herein from the order of allowance herein sought to be reviewed, which record it is stipulated by the parties hereto may be considered in this proceeding; that no appeal from or review of said orders was ever prosecuted by the petitioner, either to the District Court or to this court.

III.

Referring to paragraph IX of said petition, respondents say that the affidavit filed by the said A. M. MacDonald was not filed by or in accordance with any stipulation, but under and by direction of the District Judge as a part of the hearing before him upon the petition for review of the order of the

Referee, as is more fully shown by the statement of evidence contained in the transcript of the record on the appeal taken by the petitioner from the order of allowance herein sought to be reviewed, which record it is stipulated by the parties hereto may be considered upon this proceeding.

WHEREFORE, respondents pray that the petition for review herein be denied.

A. M. MacDONALD,

JOHN L. McLEAN, as Trustee in Bankruptcy of Patterson-MacDonald Shipbuilding Company, a Corporation,

Respondents.

By IRA BRONSON,

J. S. ROBINSON,

H. B. JONES,

Attorneys for Respondents.

United States of America,

State of Washington,

County of King,—ss.

H. B. Jones, being first duly sworn, on oath deposes and says: That he is one of the attorneys for respondents above named, and has signed the foregoing answer on their behalf, being duly authorized thereto; and that he has read said answer and makes oath that the statements therein contained are true as he verily believes.

H. B. JONES.

Subscribed and sworn to before me this 22d day of January, 1923.

[Seal]

W. L. GRILL,

Notary Public in and for the State of Washington,  
Residing at Seattle.

Service of the within answer admitted this 22d day of Jan., 1923.

CORWIN S. SHANK,  
Atty. for Petitioner.

[Endorsed]: Answer to Petition for Revision,  
etc. Filed Jan. 26, 1923. F. D. Monckton, Clerk.  
By Paul P. O'Brien, Deputy Clerk.



